

MINUTES
Fourth Meeting of the
Dental Auxiliaries' Technical Review Committee

December 8, 2014
9:00 a.m.
Lower Level Conference Room 'A'
The Nebraska State Office Building, Lincoln, NE

Members Present

Wayne Stuberger, Ph.D., P.T. (Chair)
Linda Black, R.T.
Allison Dering-Anderson, PharmD, R.P.
Ryan McCreery, Ph.D.
Michael Millea, M.A.
Stephen Peters, B.A., M.A.
Edmund Bruening

Members Absent

Staff Present

Matt Gelvin
Ron Briel
Marla Scheer

I. Call to Order, Roll Call, and Approval of the Agenda

Wayne Stuberger called the meeting to order at 9:00 a.m. The roll was called; a quorum was present. Dr. Stuberger welcomed all attendees. The agenda and Open Meetings Law were posted. The committee members approved the agenda for meeting four unanimously by roll call vote. The committee members approved the minutes of the third meeting unanimously by roll call vote after making several corrections.

II. Discussion on the Issues and Preparation for a Public Hearing

Mr. Peters commented that the provisions of the two proposals on supervision are confusing given that the two proposals differ on the meaning of certain levels of supervision and one proposal, the NDHA proposal, has a level of supervision, namely direct supervision, that the other, the NDAA/NDA proposal, doesn't even recognize. Mr. Peters asked the applicant representatives in attendance to clarify this situation. An NDHA representative commented that her group is proposing the creation of direct supervision in order to ensure that the work of dental assistants is checked by a supervising dentist before a patient leaves the dentist's office.

Mr. Peters asked the committee chair, Dr. Stuberger, if the committee members will have to decide whether or not to accept this proposed new terminology. Dr. Stuberger responded that this would depend on which, if either, of the two proposals the committee members recommend.

Ms. Black commented that her concern is with access to dental care in remote rural areas of our state, and that she wants testifiers to comment on what their respective proposals have to offer in that regard.

Dr. Dering- Anderson stated that she has an on-going concern about both proposals pertinent to their complexity. She added that she wants the testifiers from both applicant groups to comment on how the public can understand the respective services the various levels of dental auxiliaries can provide. She also indicated that she wants testifiers to comment on the how the HHS Department would be able to enforce these proposals if either of them were to pass.

The following discussion pertained to the dental assistant component of the NDAA/NDA proposal in which the criteria for new credentialing proposals was utilized.

Criterion one: Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public.

Dr. Dering-Anderson commented that the problem with the current situation is that the Board of Dentistry lacks authority to define practice standards for dental assistants.

Dr. Stuberg commented that there is a need to regulate dental assistants because there is a need to define standards of practice for this profession and provide the public with greater assurance of safe and effective practice.

Mr. Bruening commented that it's difficult for patients to know what functions a given dental assistant is trained to perform. Licensure would define some educational and training standards for them.

Dr. Dering-Anderson commented that no evidence of harm to the public from the work of dental assistants has yet been presented by either applicant group.

Mr. Bruening commented that both proposals allow some dental assistants to remain unlicensed which, in effect, allows the shortcomings of the current practice situation to continue. An NDAA/NDA applicant representative responded that these dental assistants would have the option of sitting for a licensure examination that would test their knowledge if they so desired.

Dr. Stuberg commented that both proposals lack clarity as regards the implications of the so-called 'OJT' component of the dental assistant group, adding that the public is not going to understand this aspect of these proposals. He added that, under both proposals, any dental assistant who is not licensed would have the same title as one who is licensed, namely, 'dental assistant'. This would be very confusing for the public.

Dr. Millea commented that the irreversibility of some dental procedures makes the regulation of dental assistants an important and necessary thing to do.

Dr. Stuberg commented that the public needs greater assurance of competency regarding the work of dental assistants.

Ms. Black commented that since dental assistants are not autonomous perhaps there's no need to credential them.

Dr. McCreery asked the applicants to present testimony at the public hearing to clarify how their proposal would provide for better protection for the public than what exists now.

Criterion two: Regulation of the profession does not impose significant new economic hardship on the public, significantly diminish the supply of qualified practitioners, or otherwise create barriers to service that are not consistent with the public welfare and interest.

Mr. Peters asked if there would be licensure fees associated with the proposed credential for dental assistants. An NDAA/NDA applicant representative stated that there would be fees. Mr. Peters asked the applicants who would pay for these costs. He was informed that each licensee would pay the cost of their own licensure fee.

Dr. Stuberg commented that licensure for dental assistants holds promise of increasing access to services and of decreasing the cost of services.

Criterion three: The public needs assurance from the state of initial and continuing professional ability.

Dr. Stuberg asked the applicants if dental assistants would have a continuing education requirement if the proposal were to pass. The applicants responded that there would be a continuing education requirement for dental assistants, and that it would likely be 16-hours over a two year period.

Mr. Peters commented that he is concerned about the fact that there would continue to be an unlicensed group within dental assisting if the proposal were to pass which would create two competing standards for dental assistants.

Dr. Dering-Anderson commented that the complexity of the functions for dental assistants defined in the proposal would require assurance of competency by the regulatory process.

Criterion four: The public cannot be protected by a more effective alternative.

Dr. McCreery commented that it would be better if the NDAA/NDA proposal provided more standardization for dental assistant licensing rather than allowing some dental assistants to remain unlicensed, for example, as the current proposal does.

Dr. Dering-Anderson commented that if there are going to be different practice standards for some dental assistants as opposed to other dental assistants then there is a need for different and distinct terms to describe these two components within the dental assistant profession. She added that without this the agency's ability to administer this proposal is

going to be seriously hampered.

The following discussion pertained to the dental assistant component of the NDHA proposal in which the criteria for new credentialing proposals was utilized

Criterion one: Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public.

Mr. Peters commented that, like the NDAA/NDA proposal, this proposal also includes an 'on-the-job trained' unlicensed component to the dental assistant portion of their proposal, adding that the same concerns pertain to the NDHA proposal in this regard. Mr. Peters added that oversight provisions are not clear in the NDHA proposal.

Dr. Dering-Anderson commented that the problem with the current situation is that the Board of Dentistry lacks authority to define practice standards for dental assistants.

Dr. Stuberger commented that there is a need to regulate dental assistants because this would define standards of practice for this profession and provide the public with greater assurance of safe and effective practice.

Mr. Bruening commented that it's difficult for patients to know what functions a given dental assistant is trained to perform. Licensure would define some educational and training standards for them.

Dr. Dering-Anderson commented that no evidence of harm to the public from the work of dental assistants has yet been presented by either applicant group.

Mr. Bruening commented that both proposals allow some dental assistants to remain unlicensed which, in effect, allows the shortcomings of the current practice situation to continue. An applicant representative responded that these dental assistants would have the option of sitting for a licensure examination that would test their knowledge if they so desired.

Dr. Stuberger commented that both proposals lack clarity as regards the implications of the so-called 'OJT' component of the dental assistant group, adding that the public is not going to understand this aspect of these proposals. He added that, under both proposals, any dental assistant who is not licensed would have the same title as one who is licensed, namely, 'dental assistant'. This would be very confusing for the public.

Dr. Millea commented that the irreversibility of some dental procedures makes the regulation of dental assistants an important and necessary thing to do.

Dr. Stuberger commented that the public needs greater assurance of competency regarding the work of dental assistants.

Ms. Black commented that since dental assistants are not autonomous perhaps there's no

need to credential them.

Dr. McCreery asked the applicants to present testimony at the public hearing to clarify how their proposal would provide for better protection for the public than what exists now.

Criterion two: Regulation of the profession does not impose significant new economic hardship on the public, significantly diminish the supply of qualified practitioners, or otherwise create barriers to service that are not consistent with the public welfare and interest.

Dr. Dering-Anderson commented that the NDHA proposal is more restrictive than the NDAA/NDA proposal regarding dental assistant scope of practice, and that under the NDHA proposal oversight is much more stringent with no provisions for general supervision at all, and no expanded functions for them at all. She added that the NDHA proposal would require dental assistants to take additional training not required by the NDAA/NDA proposal, and that these additional courses seem to her to be unnecessary and unduly restrictive.

Dr. Dering-Anderson asked the NDHA applicants to testify regarding why they are so concerned about who is monitoring the work of dental assistants.

Dr. Stuberg commented that oversight provisions seem to be quite variable from one profession to another in the NDHA proposal. He also noted that the NDHA proposal would consider expanded functions for dental assistants only “at a later date.”

Criterion three: The public needs assurance from the state of initial and continuing professional ability.

The committee members indicated that the comments they made under this criterion pertinent to the NDAA/NDA proposal pertain for the NDHA proposal as well.

Criterion four: The public cannot be protected by a more effective alternative.

Mr. Peters commented that one alternative would be for the two applicant groups to make another attempt to cooperate to create a single, unified proposal, and asked testifiers of both applicant groups to address this option at the public hearing.

The following discussion pertained to the dental hygiene component of the NDHA proposal in which the criteria for scope of practice proposals was utilized

Criterion one: The health, safety, and welfare of the public are inadequately addressed by the present scope of practice or limitations on the scope of practice.

Ms. Black stated that increasing services to underserved areas is very important, and asked that those who testify comment on how their proposal would accomplish this.

Criterion two: Enactment of the proposed change in scope of practice would benefit the health, safety, or welfare of the public.

Dr. McCreery commented that there is a need for the NDHA applicants to find an appropriate balance between increasing access to services and ensuring the safety of these services.

Criterion three: The proposed change in scope of practice does not create a significant new danger to the health, safety, or welfare of the public.

Dr. Stuberg expressed concern about the safety of some of the expanded functions, and the lack of clarity as to the exact level of supervision that would be required under the NDHA proposal for these expanded functions.

Dr. McCreery reiterated his concern about the need for the NDHA applicants to find an appropriate balance between increasing access to services and ensuring the safety of these services.

Ms. Black indicated that the NDHA applicants need to pursue alternatives to their concepts for oversight.

One dental representative commented that there are too many irreversible procedures included in the NDHA proposal, such as diagnosis, tooth extraction, and perforation of teeth, for example. This representative also commented that the lack of clarity regarding oversight for such irreversible procedures also raises concerns.

Dr. Dering-Anderson asked the NDHA applicants why a class 1V tooth extraction would require anesthesia.

She also asked for clarification of the term 'reversal agent' and clarification of how often such medications are actually administered. She also commented that the proposal would allow too many irreversible procedures, and that there are too many procedures that would be allowed under general supervision.

Criterion four: The current education and training for the health profession adequately prepares practitioners to perform the new skill or service.

Mr. Peters asked the NDHA applicants to present testimony to clarify how the didactic components of the proposed additional education and training would be acquired under their proposal, and whether this would be classroom training or on-line training, for example.

Dr. Millea asked the NDHA applicants to provide information pertinent to the accreditation of their proposed courses and the examinations for these courses.

Criterion five: There are appropriate post-professional programs and competence assessment measures available to assure that the practitioner is competent to perform the new skill of service in a safe manner.

Dr. Dering-Anderson asked the NDHA applicants to clarify the meaning of expression 'current education'. She then asked how a pharmacist could know if the course taken by a given dental hygienist was sufficiently current to qualify them to prescribe a given medication.

Mr. Peters commented that assessment of a patient's condition and pharmacological skill is needed for safe and effective prescriptive authority, and then asked how it can be known which dental hygienist is competent to do this. Mr. Peters then asked the applicants to clarify what they mean by 'competency'. An applicant representative responded that the Board of Dentistry would define what this means. Dr. Stuberg then responded that this does not answer the question, and that this kind of vagueness is a weakness of the dental hygiene proposal. An applicant representative responded that there is a national accreditation body that has already defined what this means.

Criterion six: There are adequate measures to assess whether practitioners are competently performing the new skill or service and to take appropriate action if they are not performing competently.

Dr. Stuberg commented that information pertinent to this criterion has not been provided by the applicants and asked them to provide testimony on this at the public hearing.

The following discussion pertained to the dental hygiene component of the NDAA/NDA proposal in which the criteria for scope of practice proposals was utilized

Criterion one: The health, safety, and welfare of the public are inadequately addressed by the present scope of practice or limitations on the scope of practice.

Dr. Dering-Anderson asked the NDAA/NDA applicants to testify regarding how a pharmacist can know which prescriptions a dental hygienist can prescribe under the terms of their proposal. She also asked for clarification on the meaning of the term 'dental hygiene diagnosis'.

Criterion two: Enactment of the proposed change in scope of practice would benefit the health, safety, or welfare of the public.

The committee members had no comments or questions on this criterion as it pertains to the NDAA/NDA proposal.

Criterion three: The proposed change in scope of practice does not create a significant new danger to the health, safety, or welfare of the public.

The committee members had no comments or questions on this criterion as it pertains to the NDAA/NDA proposal.

Criterion four: The current education and training for the health profession adequately prepares practitioners to perform the new skill or service.

The committee members had no comments or questions on this criterion as it pertains to the NDAA/NDA proposal.

Criterion five: There are appropriate post-professional programs and competence assessment measures available to assure that the practitioner is competent to perform the new skill of service in a safe manner.

The committee members had no comments or questions on this criterion as it pertains to the NDAA/NDA proposal.

Criterion six: There are adequate measures to assess whether practitioners are competently performing the new skill or service and to take appropriate action if they are not performing competently.

The committee members had no comments or questions on this criterion as it pertains to the NDAA/NDA proposal.

III. Future Meeting Dates and Next Steps

The following dates and times were tentatively identified for future meetings: January 8, 2015; and February 12, 2015. Each of these meetings are scheduled from nine o'clock to noon. The next step in the review process is the public hearing on January 8, 2015.

IV. Other Business and Adjournment

There being no further business, the meeting was adjourned by acclamation at 11:45 a.m.